

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LUZ AQUINO,
Plaintiff,

v.

CALIFORNIA RECONVEYANCE
COMPANY,
Defendant.

Case No. 14-cv-01818-WHO

**ORDER REGARDING PLAINTIFF'S
MOTIONS FOR LEAVE TO AMEND
AND FOR RECUSAL**

Re: Dkt. Nos. 29, 32

This order concerns two motions filed by plaintiff Luz Aquino, a motion for leave to amend her complaint and a motion for recusal. Dkt. Nos. 29, 32. Aquino filed both motions after defendant California Reconveyance Company filed a motion to dismiss arguing that Aquino's complaint fails to state a claim for relief because, among other reasons, her claims are barred by res judicata. Dkt. No. 10. I have not yet issued a decision on the motion to dismiss.

I am willing to consider Aquino's motion for leave to amend at the same time that I consider the motion to dismiss because she is not represented by counsel. For the reasons stated in defendant's motion to dismiss, Aquino would not be able to proceed on her current complaint, but she indicates that she may have additional parties or claims that she would like to include.

Under Civil Local Rule 10-1, a party moving for leave to amend must attach to the motion a copy of the proposed amended pleading. N.D. Cal. Civ. Local R. 10-1 ("Any party filing or moving to file an amended pleading must reproduce the entire proposed pleading and may not incorporate any part of a prior pleading by reference."). Aquino has not complied with this rule, and her motion, which is only one sentence long, does not explain how exactly she intends to amend her complaint.

In light of Aquino's pro se status, she is granted until **October 17, 2014** to file with the

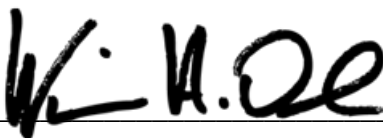
1 Court a copy of the amended complaint she proposes to file if leave to amend is granted. Aquino
 2 does not need to file an additional motion; she only **needs to submit the amended complaint**
 3 **that she would file** if given the opportunity to do so. Aquino is advised that I will examine her
 4 proposed amended complaint closely in determining whether to grant her leave to amend, or
 5 whether amendment would be futile. The defendant may, but need not, respond to Aquino's
 6 submission by October 24, 2014.

7 As to the motion for recusal, the motion is DENIED. Aquino's sole ground for recusal is
 8 that I have "already ruled unfavorably on another case" that she filed in this Court, *Aquino v. JP*
 9 *Morgan Chase Bank N.A.*, No. 12-cv-05548-WHO (N.D. Cal. Oct. 29, 2012). Presumably,
 10 Aquino is referring to the fact that her prior action was dismissed with prejudice after she was
 11 granted three opportunities to amend her complaint. *See id.* at Dkt. No. 54. Aquino is certainly
 12 entitled to disagree with that decision. However, mere disagreement with a judge's ruling is not
 13 enough to support a finding of bias or prejudice warranting recusal. *See United States v. Studley*,
 14 783 F.2d 934, 939 (9th Cir. 1986) ("The alleged prejudice must result from an extrajudicial
 15 source; a judge's prior adverse ruling is not sufficient cause for recusal.").

16 To summarize: The motion for recusal is DENIED. Aquino is granted until October 17,
 17 2014 to supplement her motion for leave to amend with a proposed amended complaint. I will
 18 issue an order regarding California Reconveyance Company's motion to dismiss after that date.

19 **IT IS SO ORDERED.**

20 Dated: October 2, 2014

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 22 WILLIAM H. ORRICK
 23 United States District Judge
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